THE ENGLISH FACTORY INSPECTORS AND THE DEVELOPMENT OF FACTORY LEGISLATION, 1833-1844

BY

LLOYD RUSHFORD SORENSON

A. B., University of North Dakota, 1938

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AN ABSTRACT OF A THESIS

SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
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I

The works on factory reform which have appeared during the past century are found, for the most part, to lie outside the mainstream of historical writing. They have been the publications of interested parties, of pleaders, of men who were themselves involved in the factory controversy and wished through their writings to pass on to posterity favorable impressions of themselves. Only B. L. Hutchins and H. Harrison have contributed a monograph which does anything toward satisfying the need for real knowledge upon this subject, and even their work stops short of the balanced appraisal demanded by today's scholarship. Influenced throughout by the ideal of "industrial democracy" which they learned from Sydney and Beatrice Webb, Miss Hutchins and Miss Harrison have produced an adequate history of factory reform as a working man's movement. That the repercussions of the reform agitation were felt by a much larger segment of society than those represented on the short time committees is suggested only incidentally; and that factory legislation had a great significance for public administration is hardly indicated at all. Three phases of factory reform, which were neglected by Hutchins and Harrison and by all who have written on the subject, have been selected for treatment here. These are the influence of political economy, factory inspection from 1833 to 1844, and an evaluation of the educational clauses of the factory act of 1833.

The student who has read only the secondary authorities available on factory legislation will probably find something paradoxical in the thought that classical economy and the

system of political liberalism based upon it constituted any considerable part of the social reform pattern. With the single exception of J. H. Clapham in his *Economic History of Modern Britain,* each of these authorities seems to have found the liberals obstructionist throughout. This interpretation of liberalism in the limited area of factory reform springs from an interpretation in a larger plane which has read into classical economy a blanket injunction against all governmental interference for the object of adjusting social dislocation and alleviating poverty. So firmly imbedded is this interpretation in the intellectual groundwork of the twentieth century that the mere mention of classical economy inevitably summons up the idea of *laissez faire.*

A close reading of the classical economists will reveal that they protested not against all governmental intervention in industry but against the sort of intervention which characterized the governments of their day. Adam Smith provides a case in point. If one is to avoid the common error that Adam Smith is the modern prophet of *laissez faire,* he must consider the character of the economic problem with which the greatest of classicists was confronted. He saw an economy afflicted throughout by monopolistic growths. He saw a new class of investors (not factory owners yet, but capitalists of the domestic system) anxious to step up production, to increase the industrial and agricultural wealth of the nation. However these men with progressive ideas and funds to back them were balked at every juncture by a government which promiscuously threw out bounties, monopolies, and prohibitive tariffs, whenever an influential group brought sufficient pressure to get them. It was against this type of governmental intervention that Adam Smith wrote. He argued that public regulation was largely unnecessary, that competition would instill balance into an economy with a social efficiency quite beyond the capability of the corrupt governments of his day. Far from placing any great reliance in these governments as forces for economic reform, he felt that they were themselves the root of eighteenth century

stagnation; for with their restrictive and often outmoded legislation, their special privileges granted to the favored few, and their fallacious ideas about money, they stood as a solid obstruction almost choking off completely the free flow of capital. To his mind the only alternative was that between monopoly and competition, and government was aligned preponderantly behind the former.

Whatever the benefits which Smith expected from the process of free competition, he was always aware of certain socially harmful effects that could issue from it. He thought that competition might not in many cases place "the greater part of individuals in such situations as naturally form in them," and when this happened he felt it incumbent upon government to do something to rectify the social dislocation. Furthermore, it seemed obvious to him that progressive application of the division of labor principle must brutalize the working classes by rendering their daily tasks ever more uniform and monotonous, by taking all variety out of life. Here again he thought it an obligation of government to prevent the total corruption of the "great body of the people," and he advocated a broad program of educational reform to counteract the growing specialization of industry which he both advocated and feared.

Neither Adam Smith nor David Ricardo, who succeeded to the position of England's leading economist, was ever involved actively in the factory reform movement, since both died before the controversy reached its height. However, several other economists of a later generation did participate. Three of these have been selected for discussion here—Colonel Robert Torrens, John Ramsay McCulloch, and Nasau Senior. Only the first of these served in Parliament. By his work there, however, he effectively dispelled the delusion that classical economy must on principle disapprove governmental intervention in industry of the type provided by the factory act of 1833 or even that contemplated by the ten hours bill itself. Two other economists, Sir James

McIntosh and Thomas Atwood, sat in Parliament at the same time. Although their contributions to political economy were too meager to warrant separate treatment here, it should be noted that they worked with Torrens to promote the cause of the factory reformers. McCulloch is important rather less for what he contributed directly to legislation than for his clarifying classical theory in order to provide specifically for political controls to attain certain social goals. Nassau Senior, looming large in any consideration of factory reform by reason of his being identified by historians with the opposition to reform, did more to refute than to confirm the contention of a hostile economic science in this matter.

Colonel Torrens was the most noted economist to sit in Parliament during the session of 1833. Although he was not the only member to cite political economy—the corn law repealers and those opposed to factory reform were especially adept at summoning it to promote their own ends of the moment—Torrens could speak of economic theory with an air of authority which no one else in Commons could match. His theories were similar in most respects to those held by other economists of his day; indeed his name is associated with the development of many basic principles of classical economy. And yet Torrens could see nothing in the proposal for limiting the working day by law to ten hours that was in any way inconsistent with economic science. Individual skill, energy, and natural advantages had brought the English worker to a point where he produced in nine hours roughly what the foreigner produced in twelve; and with that margin of superiority at hand there need be no danger from competition if the corn laws were but eliminated. However, he did see something definitely opposed to the welfare of labor in the scheme the government proposed to substitute for Lord Ashley's ten hours bill. Workers had expressed willingness to sacrifice their children's wages to the extent necessary to bring hours down to ten; if they were lowered further to eight, as Lord Althorp suggested, adults would be forced to work additional hours themselves to compensate

for the loss of children's wages. Furthermore, he was prepared to meet the argument of those who insisted that the ten hours bill would reduce the working hours of adults as well as of children. This assertion was a favorite argument among those who dabbled in political economy. That, he said, was an avowed object of the bill and one he could himself accept. Arguing that the adult laborer "should be left free to make what contracts he saw fit, and to dispose of his labour to the best advantage," he denied the pertinence of the principle in this case; for the legislature, through its corn laws, had already deprived the worker of his status as a free agent, had "compelled him to receive as his wages a less quantity of the necessaries of life than he would otherwise obtain," had cast "a weight in one scale against the labourer." It was but right that the balance be restored by adding the counterweight of the ten hours bill in the worker's favor.

John Ramsay McCulloch was a second economist who was involved in the factory reform controversy. Since he is generally considered to have been the most orthodox of all the economists who were active during this period, there is a special significance in his attitude toward factory legisaltion. He seems first to have shown an interest in this matter in 1833 when he wrote to Lord Ashley offering his support for the ten hours bill. "A notion is entertained," he said, "that Political Economists are, in all cases, enemies to all sorts of interference but I assure you I am not one of those who entertain such an opinion." From that date he applied a considerable portion of his energies to the problem of clarifying classical economics in order to remove the false impression that it opposed all types of social legislation.

More than any other economist of the period, Nassau Senior has been associated in tradtion and in histories of social reform with the more theoretical type of opposition to factory laws. This idea can be traced in most instances to a letter written by Senior in March, 1836, to Charles Poulett

Thompson, President of the Board of Trade, in which he advanced the theory that in a mill working eleven and a half hours daily the net profit must all be produced during the last of the working hours. Reasoning from this meager evidence historians have concluded that in the matter of factory reform "each step was gained in the face of strong opposition" on the part of Senior and all who followed his lead on this question. That his theory, even if valid, could have been used only against the ten hours bill, and not against the equally important acts of 1833 and 1844, has hardly been suggested. That Senior actually endorsed the principle of both these acts, except insofar as the latter included adult women, had not been noticed at all.

II

Factory regulation received the principle of centralized control from the act of 1833. That it acquired an unbiased, scientific sort of administration must be credited to the men who first served as factory inspectors. Except in the case of Leonard Horner, little is known about these men. Thomas Jones Howell had been a barrister of some note, having edited two volumes of the *Complete Collection of State Trials.* After a period in which he served as judge advocate to the vice admiralty court at Gibraltar, he was named secretary to the commissioners of colonial inquiry in 1830. Later he was appointed a commissioner for West India Islands relief; and finally in October, 1833, he was awarded the position of factory inspector. About Robert Rickards there is little information beyond the fact that he had been a member of Parliament for Wootton Bassett from 1813 to 1816. Robert J. Saunders, who was probably as efficient and capable as any of the inspectors, made so little impression upon the compilers of biographical dictionaries that nothing at all can be discovered about his life other than what is gleaned from his reports to the Home Office.

Leonard Horner, at the time of his appoinment, was

already a man of some accomplishment in England. The brother of Francis Horner who had been a Parliamentary spokesman for the romantics of the first years of the century, Leonard Horner was well known in Scottish political and educational circles. In 1827 he was appointed warden or chancellor of the ill fated University of London, a post which he held for some four years. Possibly Horner's principal interest was always geology; but despite the recognition which came to him for occasional contributions, he was never able to attain the front ranks of the science because the pressure of other business prevented his devoting the exclusive attention that greatness required. However, he retained his interest in geology even when he acted on the factory commission in 1833 and later when he served as factory inspector.

First problem to be dealt with by the government under the factory act of 1833 was that of dividing the United Kingdom into four districts and assigning one of them to each of the inspectors. The first attempt at this resulted in a rather unequal apportionment of mills and workers. Robert Rickards was given a district, relatively small in extent but densely studded with factories, that included Lancashire, Yorkshire, a few counties bordering upon these, and a narrow strip along the northern edge of Wales. Robert Saunders received what remained of southern and eastern England. Thomas Jones Howell's assignment took in southern Ireland and most of Wales; while Leonard Horner's district consisted of the four northern counties of England, northern Ireland, and all of Scotland. The inspectors found that this system of districting was unsatisfactory, since a much greater number of mills were situated in Rickards' district than elsewhere. A redivision in 1837, which was worked out by the inspectors themselves, put all of Scotland and Ireland in one district; while Howell and Saunders each took parts of the Manchester district from Horner, who had replaced Rickards there in 1836.

All factory legislation before 1833 had sought, by using the instrumentalities and techniques of an agrarian past, to adjust the imbalances of an industrial society. Because these attempts failed consistently, it became increasingly evident that new administrative agencies and radically different techniques were urgently needed, that there must be a drastic breaking away from the methods of an earlier day if the intent of the legislature were to be implemented in a modern economy. First step toward the new type of administration was taken when the factory commission devised a system of factory inspection of a national scope and had it written into the factory act of 1833. Significant as this first step was, however, it could be no more than a beginning, no more than the provision of certain administrative forms; further progress and the development of means equal to the growing problems of administration were dependent upon the energy and insight that the inspectors themselves were to contribute.

One of the first administrative problems to be solved by the inspectors was that of securing assistants and of organizing an inspection system into which these assistants could be fitted. Oppoition by manufacturers prevented the appointment of these assistants (known as superintendents) in some districts until 1836. And no clear definition of the relationship between superintendent and inspector was evolved before 1836, when Lord John Russell, the Home Secretary, removed all ambiguity by ordering that the superintendents act under the orders of the inspectors and make all reports to them rather than directly to the Home Office as some of them had been doing.

In the period of compromise and amendment that had preceded the passage of the factory act of 1833, there had been added to it a provision denying superintendents access to the working parts of mills without the previous permission of the management. Originally, entrance and freedom of movement had not been denied them very generally; but

within a few years prosecutions and the diligence of superintendents in their duties had rankled employers sufficiently to cause exclusions in all the districts except the Scottish. Here the superintendents under James Stuart, inspector there after 1836, worked under instructions which prevented their doing anything that might irritate employers. All of the inspectors realized the need for legislation authorizing superintendents to enter mills without permission; and after several unsuccessful attempts to get such legisaltion through Parliament, a provision granting the right of entry was incorporated in the factory act of 1844.

Another administrative problem whose solution was of vital importance was that of providing certain auxiliary controls, in the form of books and records, to aid the inspectors in their administrative task. Because there was no science of public administration to point out likely procedures, the factory act of 1833 left the inspectors a rather poorly defined option to make whatever arangements they might prefer. Differences among the inspectors appeared in this regard. Howell and Saunders tended to require little more than what was called for specifically by the act; while Rickards and Horner worked out systems which placed employers under obligation to keep endlessly detailed records about the work of their employees. In 1836 the inspectors met in Lodnon with orders from the Home Office to draw up a set of joint regulations which would apply equally in all districts. Because these regulations represented the combined wisdom and experience of the inspectors, they proved of great value in rendering administration more effective after they were put into effect on November 1, 1836. Later they were embodied in the factory act of 1844.

Most difficult of all the problems confronting the inspectors was that of determining, with any degree of certainty, the exact age of any child or young person. Since there was no registration act effective in England before 1837 and baptismal certificates were inadequate, unreliable,

and easily forged, the legislature in drawing up the factory act had sought to avoid the difficulties of customary judicial processes for determining age by calling upon the medical profession for assistance. It provided that all children must have a certificate, signed by a physician or surgeon and countersigned within three months by an inspector or justice, which stated that the child in question had "the ordinary Strength and Appearance of Children of or exceeding the Age of Nine years."

By referring the inspectors to surgeons and physicians, Parliament had suggested a way in which an almost hopeless situation could be handled with at least a modicum of success. That it had, however, fashioned no more than a stop-gap measure and had by no means satisfied the acute need for universal registration of births became evident to the inspectors as soon as they first sought to apply the act in their districts. Although many parents of working children had been among those who had come out at Oastler's command and whipped the countryside into an uproar over "infant slavery," they now devoted themselves to devising ways whereby their children could be made to appear older than they actually were and thus win the privilege of working extra hours for extra pay. Their ingenuity was just short of incredible. They forged and falsified certificates. They went from doctor to doctor until they found one who would grant the certificate desired. They resorted to what Rickards called the "lowest practitioners," who might be a "drunken ale-house keeper" or an apothecary's apprentice or almost anyone who chose to call himself a surgeon, since there was no legal definition of the term. They bought certificates from those who had already received them. They sent an older child to the surgeon for a certificate and a younger one to work with it. Indeed they seemed to do everything conceivable to obstruct the administration of the act which had presumably been passed for their protection.

The problem created by these disruptive tactics on the

part of the operatives was one common to all districts. However, all of the inspectors did not react in an identical manner. Howell, always the strict constructionist, felt he could do nothing to correct this condition, since the act did not specifically indicate what should be done. Rickards and Horner, on the other hand, worked out a system which, though its legality was questionable, provided at least a partial remedy. This system was incorporated in the act of 1844. Among its principal features were the following: 1. The inspectors were authorized to appoint certain surgeons who had the right of issuing certificates of age which did not require a countersignature. 2. All surgeons who held degrees from recognized colleges could issue certificates, but their certificates, unless they happened to be appointed surgeons, had to be countersigned by a magistrate who actually saw the child in question and had proof that the person he saw was the person mentioned in the certificate. 3. Certificates had to be issued in the factory rather than in the doctor's office, so that they might never pass into the hands of the employee and be available for fraudulent reuse. 4. Both inspectors and sub-inspectors were given power to annul certificates if they had reason to believe the child or young person to be of an age other than that for which he was certified; and if the certifying surgeon agreed they could annul if the certified person was thought to be of "deficient Health or Strength, or by Disease or bodily Informity incapacitated for Labour, or liable to be injured by continued Employment."

The principal administrative problem of the period 1834 through 1839 had to do with the overworking of children, whether by deliberate violation of the law or by evasion through the use of false certificates. In the four years beginning in 1840 the problem changed. Because the textile industries were in the midst of severe depression, factory owners adopted the policy of discharging children and employing older workers of the thirteen to eighteen year group who were permitted by law to work twelve hours daily. In

many cases employers overworked these young persons; and the inspectors during these years found themselves engaged, with inadequate legal means, in a struggle to suppress numerous cases of working these protected workers beyond the legal maximum.

Several techniques were developed by masters to enable them to overwork young persons with but a slight possibility that they would be detected and prosecuted. Most bewildering of these techniques was the "spurious relay." Because it was legally permissible to work adults any number of hours and to stagger the schedules of young persons so as always to have some of them on hand to assist the older workers, the employers found that by putting the young persons on very complicated schedules they could render it almost impossible for the inspectors to learn whether young persons were actually overworking. When this was further complicated by tampering with factory clocks, the system from the masters' point of view became almost perfect. The inspectors tried unsuccessfully to have written into the act of 1844 a provision requiring the work of all young persons to cease thirteen and a half hours after the first young person started work in the morning—an hour and a half of this time being set aside for meals. Although they failed in this they did get a provision requiring all mills to be regulated by a public clock.

Further possibility of evasion lay in the accident clauses of the act of 1833. In the event that some casualty to machinery caused a stoppage in the mill for a period of not less than three hours, the lost time could be made up at the rate of one hour daily (in addition to the twelve hour maximum for young persons) for twelve days following the accident. Because it was always possible to arrange an accident or at least a report of one, the clause proved to be, in Horner's words, "productive of the grossest violations." This abuse was effectively allayed by a clause of the act of 1844 which forbade the making up of time lost by accident.

Possibly the most prevalent method of overworking young persons was through curtailing the meal hours of those supposed to be under the protection of the law. A mill might run from 5:30 a. m. to 7:00 p. m. with the young persons supposedly allowed one half hour for breakfast and an hour for dinner. However, since the mill stopped not at all for breakfast and only half an hour for dinner, it was doubtful that the workers got anything approaching the hour and a half allowed them by the meal clauses. The inspectors fashioned for themselves an effective instrument with which to combat this abuse when they had written into the law of 1844 a requirement that all young persons were to eat at the same time and were not to be present at meal time in a room where any manufacturing process was going on.

III

Many public men during this period thought that there would hardly be any advantage in more leisure for working class children unless that time were devoted to education. Consequently there were included in the act of 1833 several clauses which had to do with attendance at school. Working children were required to attend school two hours on each of six days during the week. Inspectors were authorized to order employers to deduct up to one penny for each shilling of pay for all children without parents or guardians, and this money was to be paid to school masters for the education of such children. School tickets or vouchers signed by a school master were to be produced each Monday by the children, and these certificates were to indicate that the child had attended school the preceding week as required by law. Finally it was enacted that if no satisfactory school were available in a factory area, the inspector could "establish or procure the Establishment" of a school. Just how this was to be done was not indicated.

The school clauses attracted much more interest than one might suppose if he but considers their weak and innocuous

character. Poulett Thompson, President of the Board of Trade, and many others thought them the best feature of the factory act. That this should be true is understandable only when one considers the great difficulties which confronted anyone who sought to move the government of England toward a program of public education. Everyone admitted the necessity of such a program; but every movement for educational reform was blocked either by the Anglicans or by the Dissenters, both of whom wanted the educational system to conform to their own educational theories.

Both Horner and Saunders revealed an especial interest in the school clauses and in trying to make them effective despite the obvious difficulties which lay before them. Horner, who had been an educator by profession before he became an inspector, drew up in 1838 and 1839 an elaborate group of proposals for the consideration of Parliament, proposals which he hoped would make of the factory act an educational as well as a factory reform measure. Because his ideas correspond more closely to those of the Dissenters than those of the Anglicans, he urged that no religion at all be taught in schools established under the act. This radical thesis, however, aroused the ire of the Tories and the whole program was blocked in Parliament.

Saunders, on the other hand, was a devout Anglican. In 1843 some educational proposals made by him were accepted by the Tory Government and presented to Parliament as a sweeping program of educational reform. Although it was stated repeatedly that this program represented the maximum concessions that the Church of England could be expected to make, the educational system which it would have provided would have been one of a thorough going Anglican character. No one was to be obliged to learn Anglican doctrine; but only Anglican doctrine was to be taught, and everyone was to be afforded at least "the opportunity of being educated in the doctrine and principles of the Church of England." Unless parents specifically objected, their children would be

given an Anglican education. The Dissenters were as unanimously opposed to this measure as the Anglicans had been to Horner's proposals five years earlier. The Government was forced to abandon the attempt to unite factory reform and educational reform.

That success was not possible in the matter of the attempted educational reforms was due in no way to any lack of ability on the part of the inspectors. Drawing upon their administrative experience in this as in all of their legislative proposals, they formulated two plans, that of Horner in 1839 and that of Saunders in 1843, which sought common ground at two different points between the embattled Anglicans and Dissenters. Either of these would have gone far toward a solution of the problem of factory education. Both failed, however, because education was not a factory problem and could not be contained within those limits. It was a national problem, one whose difficulties were tied securely to the religious prejudice of the nation; and until those ties could be cut and education freed to progress independently of an unmoving religion, mass ignorance was to continue and the people to go without knowledge.

VITA

Lloyd Rushford Sorenson was born in Casselton, North Dakota, on November 20, 1916. He attended public school at Casselton and at Sheldon, North Dakota. In September, 1934, he enrolled at the University of North Dakota and graduated in June, 1938. In September, 1938, he entered the Graduate School of the University of Illinois as a Scholar in history. In September, 1939, he was appointed an Assistant in History at the University of Illinois. From January, 1942, to January, 1946, he served in the United States Navy. In February, 1946, he returned to the University of Illinois as Fellow in History. In September, 1946, he was appointed Assistant in History. He is a member of Phi Eta Sigma, Phi Beta Kappa, and Phi Kappa Phi.